

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION

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LOLITA PENNINGTON, INDIVIDUALLY  
AND AS REPRESENTATIVE OF THE  
ESTATE AND WRONGFUL DEATH  
BENEFICIARIES OF ANDRIANA HALL,

Plaintiffs,

v.

No. 3:16-cv-248-NBB-JMV

SHARANJIT PARMAR,  
PARMAR TRUCKLINES,  
UPS GROUND FREIGHT INC.  
A/K/A UNITED PARCEL SERVICE,

Defendants.

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**PLAINTIFFS' RESPONSE TO DEFENDANT UPS GROUND FREIGHT, INC.'S  
DAUBERT MOTION TO EXCLUDE PLAINTIFFS' PROPOSED  
EXPERT DR. RALPH D. SCOTT**

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Plaintiffs Lolita Pennington, individually and as representative of the estate and wrongful death beneficiaries of Andriana Hall, file their Response to Defendant UPS Ground Freight Inc.'s *Daubert* Motion to Exclude Plaintiffs' Proposed Expert Dr. Ralph D. Scott and state:

**RESPONSE**

Defendant UPS Ground Freight Inc. ("UPS") has moved to exclude Dr. Ralph D. Scott, Plaintiffs' economic expert, under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 580 (1993). UPS asserts: "It is UPS's position that Dr. Scott's opinions, premised upon three wholly unsupported assumptions which ignore available and pertinent case facts without any explanation or justification by Dr. Scott, call into question the purported 'methodology' used to reach his opinions in this case." *See* Memorandum of Law in Support of Defendant UPS Ground

Freight, Inc.’s Daubert Motion to Exclude Plaintiff’s Proposed Expert Dr. Ralph D. Scott (“UPS Memorandum of Law”), at 4. UPS also claims that Dr. Scott has failed to account for the “specific, available facts” regarding Andriana Hall, who was a 20 year old college student with a part time job at the time of her death. Id. UPS, however, ignores the substantive law of Mississippi on recovery of wrongful death damages that Dr. Scott expressly relied upon in his report. UPS also ignores the accepted methodology for calculating lost earning capacity for minors and young adults that Dr. Scott has used in this case and many other cases.

In support of this Response, Plaintiffs rely upon the Affidavit of Ralph D. Scott attached as Exhibit 1, with his expert report in this matter as Exhibit A thereto and his expert report in a similar case involving a minor as Exhibit B thereto. Dr. Scott explains in his Affidavit that he based his calculation of Ms. Hall’s lost earning capacity upon the average earnings of similarly situated individuals at similar levels of educational attainment because at the time of her death, she was a 20 year old college student with a very limited earnings history from a part time job. In the field of forensic economics, it is a generally accepted methodology to use statistical data addressing the average earnings of similarly situated individuals at similar levels of educational attainment as the basis for the lost earning capacity of a minor or young adult.

WHEREFORE, Plaintiffs request that the Court deny UPS’s *Daubert* motion to exclude Dr. Scott as an expert. Dr. Scott’s methodology is reliable and generally accepted, the data he used is relevant, and his opinions are based on the substantive law of Mississippi on wrongful death economic damages.

Respectfully submitted,

**THE TRACY LAW FIRM**

s/ Stewart D. Matthews

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of February, 2018, I caused to be electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Mississippi, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

s/ Stewart D. Matthews

Stewart D. Matthews